

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CARRIE SEWARD,

Plaintiff,

v.

Civil Action No. 5:08CV100
(STAMP)

ELIZABETH ALLEN, FOOD SERVICE,
MEDICAL DEPARTMENT,
LYNCHBURG REGIONAL JAIL,

Defendants.

ORDER AFFIRMING AND ADOPTING REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE AND
TRANSFERRING CIVIL ACTION TO THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

On May 21, 2008, the pro se plaintiff, an inmate at Lynchburg Regional Jail in Lynchburg, Virginia, filed a civil rights complaint against the above-named defendants. The plaintiff challenges the conditions of her confinement at Lynchburg Regional Jail. The complaint was referred to United States Magistrate Judge John S. Kaull for an initial review and submission of proposed findings of fact and recommendation.

Magistrate Judge Kaull issued a report and recommendation recommending that the plaintiff's complaint be transferred to the United States District Court for the Western District of Virginia. The magistrate judge informed the parties that if they objected to any portion of the report, they must file written objections within

ten days after being served with copies of the report. To date, no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of any portion of the magistrate judge's recommendation to which objection is timely made. As to those portions of a recommendation to which no objection is made, a magistrate judge's findings and recommendation will be upheld unless they are "clearly erroneous." See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Thus, the report and recommendation of the magistrate judge in this case will be reviewed for clear error.

The plaintiff is currently incarcerated at Lynchburg Regional Jail and her complaint challenges the conditions of confinement at Lynchburg Regional Jail. Lynchburg Regional Jail is not situated within this district. Rather, it is located in the Western District of Virginia. Accordingly, venue is inappropriate in this Court and the instant complaint should have been filed in the Western District of Virginia. See 28 U.S.C. § 1391(b). This Court finds no clear error in the recommendation of the magistrate judge that this case be transferred to the Western District of Virginia pursuant to 28 U.S.C. §§ 1404(a) and 1406(a).

This Court hereby AFFIRMS and ADOPTS the magistrate judge's report and recommendation in its entirety. The plaintiff's complaint is hereby TRANSFERRED to the Western District of Virginia.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this order to the petitioner and to the Clerk of the United States District Court for the Western District of Virginia. The Clerk is further DIRECTED to TRANSFER this case to the United States District Court for the Western District of Virginia and to DISMISS the case from the active docket of this Court.

DATED: July 28, 2008

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE